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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,389	02/27/2004	Rie Miyazaki	Q80155	4816

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EXAMINER	
DOTE, JANIS L	
ART UNIT	**PAPER NUMBER**
1756	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/787,389	MIYAZAKI ET AL.	
	Examiner	Art Unit	
	Janis L. Dote	1756	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. The examiner acknowledges the cancellation of claims 1-4 and the amendments to claims 5 and 7 set forth in the amendment filed on Nov. 6, 2006. Claims 5-8 are pending.

2. The objections to the specification set forth in the office action mailed on Jul. 5, 2006, paragraph 5, items (1) and (2), have been withdrawn in response to the amendments to the specification filed on Nov. 6, 2006.

The rejection of claims 5-8 under 35 U.S.C. 112, second and first paragraphs, set forth in the office action mailed on Jul. 5, 2006, paragraphs 7 and 9, respectively, have been withdrawn in response to the amendments to claims 5-8 filed on Nov. 6, 2006. (Contrary to applicants, the substitute specification was filed on May 15, 2006, not May 16, 2006. See the Request for continued examination filed on May 15, 2006.)

The terminal disclaimer filed on Nov. 6, 2006, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 7,125,636, which is the issued patent of US application 10/787,394, has been reviewed and is accepted. The terminal disclaimer has been recorded.

Accordingly, the rejection of claims 7 and 8 under the judicially created doctrine of obviousness-type double patenting

over claims of Application No. 10/787,394, set forth in the office action mailed on Jul. 5, 2006, paragraph 16, has been withdrawn.

3. The disclosure is objected to because of the following informalities:

The figure number "1" in the phrase "Fig. 1 is a drawing typically showing a measuring instrument of viscoelasticity of a toner" (emphasis added) should be changed to the number -- 4 --. See the most recently-filed substitute specification filed on May 15, 2006, page 8, lines 18-19, in the section "Brief Description of the drawings."

Appropriate correction is required.

Applicants' arguments filed on Nov. 6, 2006, above have been fully considered but they are not persuasive.

Applicants assert that they could not find the phrase that the examiner referred to and requested that the examiner specifically identify the page and line number of said phrase.

In response to this request, the examiner has provided the page and line number and the section where the phrase is located in the substitute specification filed on May. 15, 2006.

In response to this and all future office action, to avoid any confusion as to what specification is to be amended, it is

requested that applicants specify clearly which specification they intend to amend. Of course, only the most recently filed and entered specification may be amended. This procedure is necessary because applicants have filed more than one substitute specification in addition to the originally filed specification.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 5-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Instant claims 5 and 7 recite an "image forming apparatus comprising an image carrier on which an electrostatic latent image is formed, a developing unit containing a toner, wherein the developing unit develops the electrostatic latent image on

the image carrier to form a toner image by the toner, a transferring unit which transfers the toner image on the image carrier to a recording medium" (emphasis added).

The originally filed specification does not provide an adequate written description of the image forming apparatus comprising said components recited in the instant claims. The originally filed specification provides only a description of image-forming apparatuses wherein those apparatuses comprise the particular oil-less fixing unit and use the particular toner recited in instant claims 5 and 7, respectively. See, for example, the originally filed specification, page 6, line 11, to page 8, line 1. The originally filed specification at pages 6 to 8 states that the "image forming apparatus is equipped with an oil-less fixing unit comprising a main heating member and a pressing member . . ." The originally filed specification does not appear to provide an adequate description of "an image forming apparatus" comprising the components of an image carrier, a developing unit, and a transferring unit, as broadly recited in the instant claims.

In the response filed on Nov. 6, 2006, applicants assert that the originally filed specification at page 1, lines 12-21, provides support for the image forming apparatus recited in instant claims 5 and 7.

However, that disclosure does not provide an adequate written description of the image forming apparatus recited in the instant claims. The disclosure at page 1, lines 12-21, of the originally filed specification is in the "Background of the invention section." The disclosure describes an electrophotographic "method of forming an electrostatic charge image on a photosensitive material, developing the electrostatic charge image by a toner which is carried on a developing roller, transferring the toner image developed on the photosensitive material directly to a recording medium, e.g., paper, or via an intermediate transfer substance, and fixing the toner image on the recording member by a fixing roller . . ." The "image carrier" component recited in the instant claims is broader than the disclosed photosensitive material because it encompasses image carriers that are not photosensitive, such as dielectric papers. The "developing unit" recited in the instant claims is broader than the disclosed developing roller because it includes other non-disclosed developing components, e.g., a fur brush developing unit or a cascading developing unit that cascades a developer over the surface of an electrostatic latent image, etc. The disclosure at page 1 does not provide any description of a transferring unit as broadly recited in the instant claims.

Accordingly, for the reasons discussed above, the originally filed specification does not provide an adequate description of the image forming apparatuses broadly recited in the instant claims.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,490,429 B2 (Okayasu'429) combined with US 6,300,024 B1 (Yusa), as evidenced by applicants' admissions at page 6, lines 3-7, and page 109, line 8, to page 110, line 7, of the originally filed specification; and Tables 1B and 2B at pages 107 and 108, respectively, of the originally filed specification (applicants' admission I).

Okayasu'429 discloses an electrophotographic image forming apparatus that meets the structural components recited in instant claim 7, but for the particular toner. The apparatus comprises: (1) an electrostatic latent image formation device that forms an electrostatic latent image on an electrostatic latent image carrier; (2) a development device, which develops an electrostatic image with a toner; (3) a transfer device which transfers the developed toner image onto a recording material;

and (4) a fixing device, which fixes a transferred toner image on a recording material. Col. 5, lines 7-30. The fixing device comprises a heat fixing roller **41** and a pressure roller **45**, which press-contacts the peripheral surface of the heat fixing roller to form a nip portion through which the recording material is inserted. Fig. 4; col. 12, lines 18-32; col. 14, lines 9-39; and example 1 at cols. 21-23. In the nip portion, the pressure roller **45** is depressed, i.e., the surface of the heating roller "protrudes towards" the pressing roller, which meets the nip boundary surface limitation recited in instant claim 7. See Fig. 4. The heat fixing roller in example 1 comprises a "PFA release layer" having a layer thickness of 30 μm. According to Okayasu'429, the PFA release layer is used for oil-less fixing. Col. 12, lines 18-32. In example 1, no release oil is used in the exemplified fixing. Okayasu'429 discloses that the fixing device in example 1 provided fixed toner images with no paper wrinkles and without the occurrence of uneven fixation. Col. 22, lines 61-64.

Okayasu'429 does not exemplify the particular toner recited in the instant claims. However, Okayasu'429 does not limit the type of toner used.

Yusa discloses a toner comprising a polyester resin and 2 wt% of a polyethylene wax, i.e., a release agent. See

example 1, cyan toner A, at cols. 55 and 56. The amount polyethylene wax is within the releasing agent amount of "3 wt% or less" recited in instant claim 8.

According to Yusa, its toner exhibits good low-temperature fixing with "substantially no oil" and anti-high temperature offset characteristic. The toner provides images having an appropriate gloss in a wide temperature range. Col. 6, lines 50-53, 56-57, and 63-65; col. 7, lines 1-6; and example 1, col. 57, lines 9-30.

Yusa does not disclose that the toner has the relaxation modulus properties recited in instant claim 7. However, Yusa discloses that in a oil-less fixing device, the toner exhibits a low temperature fixability of 115°C and a region of no offset between 115 to greater than 200°C, i.e., a no-offset-temperature range greater than 85°C. The toner also provides OHP (overhead projection) images having excellent transparency. No winding of the "PPC" paper around the fixing roller was observed. Col. 57, lines 8-17; col. 58, lines 40-46 and 51-54; and Table 5 at col. 61, example 1. These properties appear to the same properties sought by applicants.

The originally filed specification at page 6, lines 3-7, discloses that the "object of the present invention is to provide a toner capable of effectively repressing hot offset of

a toner in fixing characteristics, while effectively preventing the winding of a recording medium round a fixing member."

The originally filed specification shows that in an oil-less fixing device, toners that meet the relaxation modulus limitations recited in instant claim 7 and the amount of the releasing agent recited in instant claim 8 exhibited no winding of paper around the pressing roller, no-offset in a temperature range of 130 to 195°C, 145-200°C, or 140-200°C, and provided images with "good transparency." See Table 1B at page 107 of the instant specification, examples 1B to 5B; and page 109, lines 8-17.

Toners that do not possess the relaxation modulus limitations recited in instant claim 7, but which meet the amount of the releasing agent recited in instant claim 8, provided images with "good transparency," but exhibited winding of paper around the pressing roller and no-offset in a narrower temperature range than the toners of examples 1B to 5B, i.e., of 140 to 150°C, 130-165°C, or 130-170°C. See Table 2B at page 108, comparative examples 1B to 3B; and page 109, line 17, to page 110, line 7.

Thus, because the toner disclosed in Yusa appears to have the same properties sought by applicants, it is reasonable to presume that the toner disclosed by Yusa has the relaxation

modulus properties recited in instant claims. The burden is on applicants to prove otherwise. In re Fitzgerald, 205 USPQ 594 (CCPA 1980).

It would have been obvious for a person having ordinary skill in the art, in view of the teachings of Yusa, to use the toner disclosed by Yusa as the toner in the developing unit of the image forming apparatus disclosed by Okayasu'429. That person would have had a reasonable expectation of successfully obtaining an electrophotographic oil-less image forming apparatus that exhibits good low-temperature fixing and anti-high temperature offset characteristic and provides image having an appropriate gloss in a wide temperature range, as disclosed by Yusa.

Okayasu'429 does not teach that the heat fixing roller contacts the side of the recording medium opposite the side on which the toner is provided to fix the toner at the nip portion as recited in instant claim 7. However, the recitation of what side of the recording medium the heating member contacts is merely functional language describing how the apparatus functions. For the reasons discussed supra, the image forming apparatus rendered obvious over the combined teachings of Okayasu'429 and Yusa, as evidenced by applicants' admissions, meets all of the structural element limitations of the image

forming system recited in the instant claims. The recitation does not distinguish the structural elements in the instantly recited image forming system from those in the apparatus rendered obvious over the cited prior art. "Claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function." MPEP 2114 and cases cited therein. "A claim containing a 'recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus' if the prior art apparatus teaches all the structural limitations of the claim." MPEP 2114, citing Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

8. Claim 5 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 5,391,450 (Nagatsuka), as evidenced by applicants' admissions at page 6, lines 3-7, and page 89, line 8, to page 90, line 11, of the originally filed specification; and Tables 1A and 2A at pages 87 and 88, respectively, of the originally filed specification (applicants' admission II).

Nagatsuka discloses an electrophotographic image forming apparatus that meets the structural components recited in instant claim 5. The apparatus comprises: (1) a photosensitive

drum **32**, which is uniformly charged by a primary corona assembly **33** and image-wise exposed by a modulated laser light **E** to form an electrostatic latent image; (2) a development device **34Y**, which develops the electrostatic image by the use of toner; (3) a transfer device comprising a transfer drum **28** and a transfer corona assembly **29**, which transfers the developed toner image onto a recording material; and (4) a fixing device, which fixes a transferred toner image on a recording material. Fig. 6, and col. 18, lines 1-29 and 51-54; and example 1 at cols. 19-20 and in Tables 1 and 2. The fixing device comprises a heat fixing roller **11** and a pressure roller **12**, which press-contacts the peripheral surface of the heat fixing roller to form a nip portion through which the recording material is inserted. Fig. 2 and col. 20, lines 41-43. In the nip portion, the heat fixing roller **11** is depressed, i.e., the surface of the pressure roller **12** protrudes towards the heat fixing roller, which meets the nip boundary surface limitation recited in instant claim 5.

Nagatsuka does not explicitly disclose that its fixing device is an "oil-less" fixing device as recited in instant claim 5. However, Nagatsuka does not state that an oil is applied to any of the rollers in its fixing device in example 1. Thus, it is reasonable to conclude that the fixing device in

example 1 of Nagatsuka is an oil-less fixing device. The burden is on applicants to prove otherwise. Fitzgerald, supra.

In example 1, the developing device **34Y** comprises a toner comprising a binder resin and a paraffin wax, i.e., a release agent. According to Nagatsuka, its toner exhibits good low-temperature fixing and anti-high temperature offset characteristic and resistance to winding of the transfer medium around the fixing roller. Col. 3, lines 62-68; col. 4, lines 1-3; and Table 2, example 1. The toner in example 1 exhibited a low temperature fixability of 115°C and a region of no offset between 115 to 175°C. The toner also provided OHP (overhead projection) images having excellent transparency. The toner exhibited "excellent" resistance to the winding of the recording medium around the fixing roller. See Table 2.

Nagatsuka does not disclose that the toner has the relaxation modulus properties recited in instant claim 5. However, as discussed supra, the toner in example 1 exhibited various properties that appear to be the same properties sought by applicants.

The originally filed specification at page 6, lines 3-7, discloses that the "object of the present invention is to provide a toner capable of effectively repressing hot offset of

a toner in fixing characteristics, while effectively preventing the winding of a recording medium round a fixing member."

The originally filed specification shows that in an oil-less fixing device, toners that meet the relaxation modulus properties recited in instant claim 5 exhibited no winding of paper around the pressing roller, no-offset in a temperature range of 130 to 195°C, 145-200°C, or 140-200°C, and provided images with "good transparency." See Table 1A at page 87 of the instant specification, examples 1A to 5A; and page 89, lines 8-17.

In contrast, toners that do not possess the relaxation modulus properties recited in instant claim 1 exhibited winding of paper around the pressing roller and no-offset in a narrower temperature range than the toners of examples 1A to 5A, i.e., of 140 to 150°C, 130-165°C, or 130-170°C. See Table 2A at page 88, comparative examples 1A to 3A; and page 89, line 18, to page 90, line 11.

Thus, because the toner disclosed in Nagatsuka appears to have the same properties sought by applicants, it is reasonable to presume that the toner disclosed by Nagatsuka has the relaxation modulus properties recited in instant claim. The burden is on applicants to prove otherwise. Fitzgerald, supra.

Nagatsuka does not teach that the heat fixing roller

contacts the side of the recording medium opposite the side on which the toner is provided to fix the toner at the nip portion as recited in instant claim 5. However, the recitation of what side of the recording medium the heating member contacts is merely functional language describing how the apparatus functions. For the reasons discussed supra, the image forming apparatus disclosed by Nagatsuka, as evidenced by applicants' admissions, meets all of the structural element limitations of the image forming system recited in the instant claims. For the reasons discussed in paragraph 7 above, which is incorporated herein by reference, the recitation does not distinguish the structural elements in the instantly recited image forming system from those in the apparatus disclosed by the cited prior art.

9. Claims 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2005/0100807 A1 (Yamazaki), as evidenced by applicants' admissions I.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any

invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Yamazaki discloses a toner comprising 100 parts by weight of a polyester binder resin, a colorant, and 2 parts by weight of carnauba wax, i.e., a release agent. See paragraphs 0383-0398; example 11 at paragraph 0411 and in Table 1 at page 31. The polyester binder resin comprises two components: 15 parts by weight of polyester block copolymer B'; and 85 parts by weight of amorphous polyester resin A. The amount of carnauba wax is within the releasing agent amount recited in instant claim 8.

Yamazaki does not disclose that the toner has the relaxation modulus properties recited in instant claim 7. However, as discussed supra, the Yamazaki toner meets the toner compositional limitations recited in instant claims 7 and 8. Yamazaki also discloses that the toner exhibits good fixability for a temperature range of 120-210°C with no occurrence of offset. Yamazaki, paragraph 0437 and Table 3, example 11. These properties appear to be the same properties sought by applicants.

The originally filed specification at page 6, lines 3-7, discloses that the "object of the present invention is to provide a toner capable of effectively repressing hot offset of a toner in fixing characteristics, while effectively preventing the winding of a recording medium round a fixing member." The discussion of applicants' admissions I in paragraph 7 above is incorporated herein by reference.

Thus, because the Yamazaki toner meets the toner compositional limitations recited in the instant claims 7 and 8 and because the Yamazaki toner appears to have the same fixing properties sought by applicants, it is reasonable to presume that the toner disclosed by Yamazaki has the relaxation modulus properties recited in instant claim 7. The burden is on applicants to prove otherwise. Fitzgerald, supra.

Yamazaki further discloses that its toner can be used in an image forming apparatus comprising: (1) an image carrier **30** composed from a photoreceptor drum, which is uniformly charged by a charging device **40** and image-wise exposed by an exposure device **50** to form an electrostatic latent image; (2) a developing unit **60**; (3) a transfer device that comprises an intermediate transfer device **70** and a secondary transfer roller **140**, which transfers the developed toner image from the image carrier **30** to an intermediate transfer belt **110** and then

transfers the transferred toner image from the belt **110** to a recording medium; and (4) an oil-less fixing unit comprising a heating roller **210** and a pressing roller **220**. See Fig. 5, and paragraphs 0308-0313 and 0319. The developing unit **60** contains the toner. The heating roller **210** and pressing roller **220** form a nip part, where the pressing roller is depressed, i.e., the surface of the heating roller protrudes towards the pressing roller, which meets the nip boundary surface limitation recited in instant claim 7. See Fig. 8, and paragraphs 0322-0323.

Yamazaki does not teach that the heating roller contacts the side of the recording medium opposite the side on which the toner is provided to fix the toner at the nip portion as recited in instant claim 7. However, the recitation of what side of the recording medium the heating member contacts is merely functional language describing how the apparatus functions. For the reasons discussed supra, the image forming apparatus disclosed by Yamazaki, as evidenced by applicants' admissions, meets all of the structural element limitations of the image forming system recited in the instant claims. For the reasons discussed in paragraph 7 above, which are incorporated herein by reference, the recitation does not distinguish the structural elements in the instantly recited image forming system from those in the apparatus rendered obvious over the cited prior

art.

10. Applicants' arguments filed on Nov. 6, 2006, as applicable to the prior art rejections set forth in paragraphs 7-9 above, have been fully considered but they are not persuasive.

Applicants assert that the recitation "the main heating unit is in contact with the side of a recording medium opposite to the side on which the toner is provided to fix the toner at a nip part of the main heating member and the pressing member" (emphasis added in the original) "describes the position of the main heating unit and of the recording medium and is not merely a functional recitation." Applicants assert that none of the cited prior art teaches or suggests this feature.

Applicants' assertion is not persuasive. As discussed in the rejections in paragraphs 7-9 above, Okayasu, Nagatsuka, and Yamazaki each teaches an image forming apparatus comprising apparatus components that meet all the structural limitations of the instant claims. Each of the references describes a fixing device that meets all of the structural components of the fixing device recited in the instant claims. Because the prior art fixing devices meet all the structural limitations of the fixing device recited in the instant claims, the heating rollers in the prior art fixing devices are capable of contacting the side of a

recording medium opposite the side on which a toner image is provided to fix the toner image at the nip portion of the fixing device as recited in the instant claims. Applicants have not pointed to any claimed feature of the fixing device that differs from those of the prior art fixing devices. The instant claims are directed to an image forming apparatus, not to a method of fixing a toner image on a recording medium. "Claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function." MPEP 2114. "A claim containing a 'recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus' if the prior art apparatus teaches all the structural limitations of the claim." MPEP 2114, citing Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Accordingly, the recitation in the instant claims does not distinguish the structural elements in the instantly claimed fixing device from those in the fixing devices disclosed by the cited prior art. The rejections in paragraphs 7-9 stand.

11. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicants are

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janis L. Dote whose telephone number is (571) 272-1382. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Mark Huff, can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry regarding papers not received regarding this communication or earlier communications should be directed to Supervisory Application Examiner Ms. Claudia Sullivan, whose telephone number is (571) 272-1052.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLD
Jan. 8, 2006

JANIS L. DOTE
PRIMARY EXAMINER
GROUP ~~1600~~ 1700